

2806.304 Approval of the justification.

(a) All justifications for contract actions over the contracting officer's approval dollar threshold shall be submitted to the BPC for concurrence before being forwarded to the contracting activity competition advocate for approval. Justifications requiring approval by the PE shall be further submitted for the concurrence of the contracting activity competition advocate and the HCA, or designee, before being forwarded to the PE for approval.

(b) After approval by the PE, the signed original will be returned to the contracting activity and one copy will be retained by the PPRG, JMD.

(c) Pursuant to FAR 6.304(c), a class justification for other than full and open competition shall be approved in accordance with bureau procedures.

Subpart 2806.5—Competition Advocates**2806.501 Requirement.**

In accordance with FAR 6.501:

(a) The Assistant Director, Procurement Policy and Review Group, Management and Planning Staff, Justice Management Division, has been designated as the Competition Advocate for the Department of Justice.

(b) The agency head will appoint, in each bureau, an official to be the contracting activity competition advocate. The contracting activity competition advocates shall be vested with the overall responsibility for competition activities within their contracting activity. No individual in the contracting office at or below the level of chief of the contracting office may serve as the contracting activity competition advocate. An individual at any level above the BPC may serve as contracting activity competition advocate.

2806.502 Duties and responsibilities.

In addition to the duties and responsibilities set forth in FAR 6.502(b) and elsewhere in this chapter, contracting activity competition advocates shall:

(a) Actively enforce the Department's Competition Advocacy Program within the contracting activity and ensure that systems are established for

the effective internal control of contracting activity functions and activities which implement the Department's Competition Advocacy Program.

(b) Implement specific goals and objectives to enhance competition and the acquisition of commercial items.

(c) Prepare and submit to the DOJ Competition Advocate, by November 30 of each year, an annual report of competition advocacy activities conducted during the prior fiscal year.

PART 2807—ACQUISITION PLANNING**Subpart 2807.1—Acquisition Plans**

Sec.

2807.102 Policy.

2807.102–70 Applicability.

2807.103 Agency-head responsibilities.

2807.103–70 Other officials' responsibilities.

2807.105 Contents of written acquisition plans.

Subpart 2807.5—Inherently Governmental Functions

2807.503 Policy.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16124, Apr. 2, 1998, unless otherwise noted.

Subpart 2807.1—Acquisition Plans**2807.102 Policy.**

(a)(1) In accordance with FAR 7.1, DOJ contracting activities shall perform acquisition planning and conduct market research for all acquisitions in order to promote and provide for:

(i) Full and open competition (see FAR part 6);

(ii) Maximum practicable competition for those acquisitions where full and open competition is not required by FAR part 6; and

(iii) The acquisition of commercial items or, when commercial items are not available, nondevelopmental items to the maximum extent practicable.

(2) The degree of planning and market research may vary, depending on such factors as the acquisition's size, scope and complexity.

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(b) Acquisition planning shall be the joint responsibility of both the contracting and program offices. All acquisition plans shall be prepared sufficiently in advance of solicitation release dates to ensure that requirements are presented in a way that promotes full and open competition and provides sufficient time for the identification and resolution of impediments that could delay the acquisition or lead to increased cost or technical risk.

2807.102-70 Applicability.

(a) Planning commensurate with the complexity and dollar value of the individual requirement shall be performed for all acquisitions, except for those acquisitions listed in paragraph (c) of this subsection which may be exempt from the planning process. Heads of contracting activities may authorize the use of oral plans for simple and/or small dollar acquisitions. When oral plans are used, the file should be documented with the name of the individual who approved the plan.

(b) Written acquisition plans shall be prepared for all major systems acquisitions as defined in 2834.002.

(c) The following types of acquisitions may be exempt from the acquisition planning program;

- (1) Architect-engineering services;
- (2) Unsolicited proposals (when deemed innovative and unique in accordance with FAR 15.5);
- (3) Regulated utility services where services are available from only one source;
- (4) Acquisitions made from or through other Government agencies; and
- (5) Contract modifications which exercise an option or add funds to an incrementally funded contract (provided there is an approved acquisition planning document for the original action and there is no significant deviation from that plan).

2807.103 Agency-head responsibilities.

The AAG/A may establish acquisition planning criteria and thresholds for those bureaus who:

- (a) Fail to allow ample time for conducting competitive acquisitions;

(b) Develop a pattern of awarding urgent requirements that generally restrict competition;

(c) Fail to identify identical or like requirements that, where appropriate, can be combined under one solicitation and miss opportunities to obtain lower costs through volume purchasing, reduce administrative costs in processing one contract action versus multiple actions, and standardize goods and services.

2807.103-70 Other officials' responsibilities.

(a) In accordance with FAR 7.1, the HCA shall develop an acquisition planning program for all acquisitions to ensure that its needs are met in the most effective, economical, the timely manner.

(b) Heads of contracting activities have the flexibility to develop programs that are best suited to their individual needs. Criteria and thresholds shall be established at which increasingly greater detail and formality in the planning process is required. DOJ components are encouraged to keep paperwork to a minimum and to put a premium on simplicity.

(c) HCAs shall ensure that, during the acquisition planning phase, requirements personnel consider the use of:

- (1) The metric system of measurement consistent with 15 U.S.C. 2205(b); and
- (2) Environmentally preferable and energy-efficient products and services.

2807.105 Contents of written acquisition plans.

(a) HCAs shall prescribe format and content of acquisition planning documents that are commensurate with the complexity and dollar value of the individual acquisition (sample acquisition planning documents for both simple and complex acquisitions will be made available by PPRG, JMD, and may be used or modified as appropriate).

(b) HCAs shall include, at a minimum, the content elements at FAR 7.105 and 7.106 for all major systems acquisitions as defined in 2834.002.

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Subpart 2807.5—Inherently Governmental Functions

2807.503 Policy.

The requirements official shall provide the contracting officer, concurrent with the transmittal of the statement of work (or modification thereof), a written determination that none of the functions to be performed are inherently governmental. Any disputes concerning this determination shall be resolved by the contracting officer, after consultation with the requirements official. The contracting officer's determination shall be final.

PART 2808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 2808.8—Acquisition of Printing and Related Supplies

Sec.

2808.802 Policy.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

Subpart 2808.8—Acquisition of Printing and Related Supplies

2808.802 Policy.

The Director, Facilities and Administrative Services Staff, has been designated to serve as the central printing authority for the Department.

[63 FR 16125, Apr. 2, 1998]

PART 2809—CONTRACTOR QUALIFICATIONS

Subpart 2809.4—Debarment Suspension, and Ineligibility

Sec.

2809.402 Policy.

2809.404 List of parties excluded from Federal procurement and nonprocurement programs.

2809.405 Effect of listing.

2809.405-1 Continuation of current contracts.

Subpart 2809.5—Organizational and Consultant Conflict of Interest

2809.503 Waiver.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

48 CFR Ch. 28 (10-1-09 Edition)

SOURCE: 63 FR 16125, Apr. 2, 1998, unless otherwise noted.

Subpart 2809.4—Debarment, Suspension, and Ineligibility

2809.402 Policy.

Contracting activities shall:

(a) Consider debarment or suspension of a contractor when cause is shown as listed under FAR 9.406-2 and FAR 9.407-2. Contracting staffs should consult with their appropriate legal counsel prior to making a decision to initiate debarment or suspension proceedings. If a determination is made that available facts do not justify beginning debarment or suspension proceedings, the file should be documented accordingly. This determination should be subject to reconsideration if new information or additional fact-finding so justifies.

(b) If the decision is made to initiate debarment and/or suspension of a contractor, immediately prepare a notice in accordance with FAR 9.406-3(c) of FAR 9.407-3(c). The draft notice, along with the administrative file containing all relevant facts and analysis shall be forwarded to the PE, as the debarring and suspending official, following review by the activity's legal counsel and BPC.

(c) The PE shall:

(1) Review the notice and administrative file for sufficiency and provide for review by other DOJ officials as considered appropriate;

(2) If it is determined that action is warranted, give the contractor prompt notice of the proposed debarment or suspension, in accordance with FAR 9.406-3(c) or FAR 9.407-3(c);

(3) Direct additional fact-finding as necessary when material facts are in dispute.

(4) Notify the contractor of the final decision to debar or suspend, including a decision not to debar or suspend, in accordance with FAR 9.406-3(c) and FAR 9.407-3(c).

2809.404 List of parties excluded from Federal procurement and non-procurement programs.

(a) The PE shall:

(1) Provide GSA notification of the information set forth in FAR 9.404(b)